

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

JONATHAN HALL,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 1:20-CV-1052-WHA-SMD
)	
JASON SMOAK, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION and ORDER

Now pending before the Court is the Plaintiff's notice of appeal (Doc. 61) which the Court construes as containing a motion for leave to appeal *in forma pauperis* and a motion for certificate of appealability. For the reasons that follow, the Court concludes that the Plaintiff's motions are due to be denied.

28 U.S.C. § 1915(a) provides that "[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." In making this determination as to good faith, the Court must use an objective standard, such as whether the appeal is "frivolous," *Coppedge v. United States*, 369 U.S. 438, 445 (1962), or "has no substantive merit," *United States v. Bottoson*, 644 F.2d 1174, 1176 (5th Cir. Unit B May 1981) (per curiam). Applying these standards, the Court is of the opinion, for the reasons as stated in the Order (Doc. 59) adopting the Recommendation of the Magistrate Judge (Doc. 57), that Plaintiff's appeal is without a legal or factual basis and, accordingly, is

frivolous and not taken in good faith. *See e.g. Rudolph v. Allen*, 666 F.2d 519 (11th Cir. 1982).

Accordingly, it is

ORDERED that the appeal in this cause is certified, pursuant to 28 U.S.C. § 1915(a), as not taken in good faith, and the motion for leave to appeal *in forma pauperis* and motion for a certificate of appealability (Doc. 61) are hereby DENIED.

Done, this 31st day of January 2022.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE